



United States Attorney  
Southern District of New York

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The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007

March 3, 2017

**BY ECF**

The Honorable Valerie E. Caproni  
United States District Judge  
Southern District of New York  
40 Foley Square  
New York, New York 10007

**Re: *United States v. Joseph Percoco, et al., 16 Cr. 776 (VEC)***

Dear Judge Caproni:

We respectfully write to update the Court consistent with the Court's January 25, 2017 order to (i) submit a revised discovery plan by January 27, 2017 (the "Revised Discovery Plan"), (ii) provide the Court with weekly updates regarding discovery, and (iii) advise the Court whether the Government is meeting the schedule set forth in the Revised Discovery Plan. (Docket No. 82.)

In its Revised Discovery Plan, the Government advised the Court that it anticipated completing production of the discovery referenced at the initial pretrial conference (namely, all discoverable materials that had been obtained by the Government as of December 1, 2016) by February 28, 2017.<sup>1</sup> Last week, the Government noted in its discovery status letter that approximately 5,106 pages were left to be produced. Those pages have been made available to the defendants. Accordingly, the Government respectfully submits that it has complied with the schedule set forth in the Revised Discovery Plan, having now produced approximately 1.86 million pages of discovery, including, among other things, emails, phone records, bank records, and other business and government records, as well as forensic images and "processed" data from 22 electronic devices, including cellular phones, computers, and other media devices, and the results of physical search warrants, and, to the relevant parties, search warrant affidavits and other legal process that could potentially be the subject of motions.

With regard to discovery obtained during the Government's ongoing investigation since December 1, 2016, the Government has obtained approximately 25.9 GB of additional documents. As of the date of this letter, the Government has made available through its discovery vendor approximately 5.63 GB of these documents (the same amount available as of last week's letter). The Government anticipates that an additional approximately 18.3 GB will be made

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<sup>1</sup> As noted in the Government's February 3, 2017 discovery status letter (Docket No. 88), a limited number of files obtained from the search of an iCloud account, specifically, approximately 18 emails, 11 photographs, and other related files, were inadvertently not processed with the initial productions and we expect to produce those iCloud documents by March 7, 2017.

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available to the defendants before the next pretrial conference on April 6, 2017. In addition, the Government intends to promptly produce any additional discoverable documents it obtains.

With respect to the potentially privileged materials discussed in the Government's February 10, 2017 discovery status letter (Docket No. 104), the Government, defendants, and third parties are adhering to the timetable set out in that letter, and the relevant parties are working expeditiously to release non-privileged documents and provide defendants with privilege logs for the remaining documents.

The Government remains in close communication with defense counsel regarding discovery and is in receipt of several letters sent in the last two weeks on behalf of various defendants raising certain discovery-related inquiries. The Government is working to respond to these inquiries, which the Government intends to do in advance of the next pretrial conference.

Respectfully submitted,

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cc: Counsel for all defendants (via ECF)